

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
DONTAI CABRERA,

Petitioner,

15 Civ. 5915

10 Cr. 0094

-v-

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DOCUMENT

ORDER

UNITED STATES OF AMERICA,

Respondent.
----- x

FILED

6/15/16

JED S. RAKOFF, U.S.D.J.

On May 20, 2016, the Honorable Kevin Nathaniel Fox, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending the denial of petitioner Dontai Cabrera's petition filed pursuant to 28 U.S.C. § 2255. On June 6, 2016, petitioner submitted objections to the Report and Recommendation. The Court has accordingly reviewed the petition, Cabrera's objections, and the underlying record de novo.

Having done so, the Court is in complete agreement with Magistrate Judge Fox's Report and Recommendation and hereby adopts its reasoning by reference. Accordingly, the Court dismisses the petition with prejudice. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal by petitioner from this Order would not be taken in good faith, as petitioner's claim lacks any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). The Clerk of the

Court is hereby directed to close the motion at document number 209 on the criminal docket of this case, United States v. Cabrera, 10-cr-0094-7, and to enter judgment on the civil docket 15-cv-5915.

SO ORDERED.


JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
June 15, 2016